

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL ANTHONY FEOLA,

Petitioner,

v.

JEFFEREY PERKINS,

Respondent.

CASE NO. 3:24-cv-05078-JHC-GJL

ORDER GRANTING MOTION TO
STAY THE CASE

The District Court has referred this federal habeas action filed pursuant to 28 U.S.C. § 2254 to United States Magistrate Judge Grady J. Leupold. Petitioner Michael A. Feola, proceeding *pro se* and *In Forma Pauperis*, has filed a “protective” federal habeas Petition, seeking relief from a state court conviction. Dkt. 6. Currently before the Court is Petitioner’s Motion to Stay these proceedings as he exhausts his state court remedies. Dkt. 7.

On February 27, 2024, the Court entered an Order directing service of the habeas Petition, but also directing Respondent to respond only to Petitioner’s Motion to Stay. Dkt. 8. The Government filed a Response on March 1, 2024, representing that Respondent does not

1 oppose a stay for the limited purpose of allowing Petitioner to attempt to exhaust his state court
2 remedies. Dkt. 10.

3 District courts may use a “stay-and-abeyance” procedure while a petitioner exhausts his
4 claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275–77 (2005); *Calderon v. United States*
5 *District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir. 1998). Here, where Petitioner’s relevant
6 judgment and sentence remain pending in the state courts, the Court finds it would be a proper
7 exercise of discretion for the Court to stay the federal proceedings so that Petitioner may attempt
8 to exhaust his federal habeas claims in state court. Thus, after review of the relevant record, the
9 Court finds a stay is appropriate and **GRANTS** Petitioner’s Motion to Stay. Dkt. 7. The case is
10 **STAYED**.

11 Petitioner is directed to **FILE a report every ninety (90) days** informing the Court of
12 the status of his state court proceedings. The first status report is due **on or before June 5, 2024**,
13 and shall include the state court cause number(s). If the state court dismisses or resolves
14 Petitioner’s state court proceedings, Petitioner is directed to **INFORM** the Court and **FILE** a
15 motion to lift the stay **within 30 days of the state court taking such action**. Respondent shall
16 **FILE** its answer **within 45 days after the stay is lifted**.

17 Dated this 7th day of March, 2024.

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20 Grady J. Leupold
21 United States Magistrate Judge
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